

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to vehicle registration and certificate of title and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 400, “Vehicle Registration and Certificate of Title,” and Chapter 405, “Salvage,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.20 and 326.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 326 and sections 17A.3, 321.1(75), 321.13, 321.20, 321.31, 321.46A, 321.52, 321.126 and 423.26.

Purpose and Summary

The proposed amendments form a comprehensive update of the Department’s rules affecting or involving vehicle registration and certificate of title to better implement and align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options.

The term “proportional” is replaced with “apportioned” throughout Chapter 400 to conform to the language used within Iowa Code chapters 321 and 326 to describe registration fees under the International Registration Plan.

The electronic registration and titling (ERT) process is updated to remove the need for dealers to obtain a notarized power of attorney and instead to require the vehicle purchaser to provide the dealer with written authorization for each ERT transaction. The proposed amendments also reduce the record retention period for original documents from three years to six months. Requiring written authorization from the vehicle purchaser rather than a power of attorney and reducing the record retention period from three years to six months ensure the integrity of the ERT process without putting an undue burden on the participants in that process.

An Iowa Code change regarding salvage certificate registration fees for a motor vehicle that is expected to be transferred to an insurer as a result of a settlement with the owner(s) is incorporated into the rules. The amendments clarify that, as provided under Iowa Code section 321.52(4) as amended by 2017 Iowa Acts, chapter 31, section 2, an insurer obtaining a salvage certificate of title is not required to submit the last-issued certificate of title when applying for an Iowa certificate of title and that the title shall be issued free and clear of all liens and claims of ownership, including any outstanding registration fees or registration penalties.

The process for when a vehicle owner’s legal name has changed is clarified to provide that the vehicle owner is not required to obtain a corrected title with the owner’s new name but must obtain a replacement registration card that reflects the owner’s new name. Iowa Code section 321.20(1) requires both the title and the registration to reflect the owner’s correct legal name at initial application, but the Iowa Code does not require the title to be reissued if the owner’s name is subsequently changed. Rather, the Iowa Code requires the Department to properly maintain the record of ownership and to change the record as necessary to keep it accurate. Iowa Code section 321.31(1) requires the Department to maintain a record system that includes the name of the owner, to update information required to be kept in the record system within 48 hours of receipt of the information, and to include a record of the certificate of title that includes any information deemed necessary and makes the Department record system the permanent record of ownership for the vehicle. Iowa Code section 321.31 provides that the record system shall constitute the

permanent record of ownership of each vehicle titled under the laws of this state, and this, in essence, makes the Department the abstractor of the vehicle record. If a person changes the person's name, the person is required to report the name change to the Department, and the Department will change the person's record to reflect the name change. Ultimately, the Department's record, with the person's new name, becomes the record of ownership without a change of title, and the person's registration receipt for the vehicle is updated to match the Department's record.

The proposed amendments also eliminate outdated requirements to utilize paper forms when authorizing a record change and when submitting paper vehicle identification number forms for purposes of issuing a corrected title and eliminate the requirement for the county treasurer to notify the Department by regular mail or email of a title conversion and cancellation for a manufactured or mobile home converted to or from real property.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 7, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

August 9, 2018	Department of Transportation
10 a.m.	Motor Vehicle Division
	6310 SE Convenience Boulevard
	Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **761—400.1(321)**, definition of “Manufacturer’s certificate of origin,” as follows:

“*Manufacturer’s certificate of origin*” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. and 2. No change.

3. For 1992 and subsequent model year vehicles, the form used for manufacturers’ certificates of origin shall be the universal form adopted in 1990 by the American Association of Motor Vehicle Administrators (AAMVA). This requirement does not apply to trailer-type vehicles. A copy of this universal form ~~is on file in~~ may be obtained from the office of vehicle and motor carrier services at the address in subrule 400.6(1).

ITEM 2. Amend subrule 400.3(13) as follows:

400.3(13) Credits. See rule 761—400.60(321) for:

Credit for unexpired registration fee.

Credit for transfer to spouse, parent or child.

Credit from/to ~~proportional~~ apportioned registration.

Assignment of credit and registration plates from lessor to lessee.

ITEM 3. Amend subrule 400.3(14) as follows:

400.3(14) Leased vehicle. As required by Iowa Code section ~~423.7A~~ 423.26, the lessor shall list the lease price of the vehicle on the application form.

ITEM 4. Amend paragraph **400.3(16)“j”** as follows:

j. An application submitted electronically must meet all legal requirements for the transaction in question, and no requirement shall be excused or waived as a result of submitting the transaction electronically. However, wherever a signature is required, the signature may be an electronic signature, as determined by the department and according to methods approved by the department. Wherever an electronic solution approved by the department requires the submission of scanned documents, the scanned documents shall be of a quality and resolution determined by the department, which shall at a minimum meet any applicable state or federal standard or requirement, and shall completely capture and represent the original document. The department and any county treasurer processing an application retain the right under Iowa Code section 321.13 to determine the genuineness, regularity, and legality of the application and any scanned document submitted as part of the application and may withhold approval of the application and require presentation of the original document whenever the scanned document is of insufficient quality, content, or appearance to determine the same. An end user that submits a scan of an original document as part of an electronic application shall retain the original document for a period of ~~three years~~ six months. An end user shall make all such original documents available for inspection by the department at the department’s request. An end user that is a business entity shall retain the documents at the end user’s principal place of business in Iowa. Anything in this paragraph notwithstanding, lessors required to retain a damage disclosure statement under Iowa Code section 321.69(4), and authorized vehicle recyclers licensed under Iowa Code chapter 321H and motor vehicle dealers licensed under Iowa Code chapter 322 required to retain damage disclosure statements under Iowa Code section 321.69(6)

shall retain the original document for a period of five years from the date of the statement, as required therein.

ITEM 5. Amend paragraph **400.3(16)“k”** as follows:

k. An end user that is a motor vehicle dealer licensed by the department under Iowa Code chapter 322 or 322C and that electronically submits an application on behalf of the person to whom the dealer is transferring the vehicle shall disclose to the person that the application will be submitted electronically and shall obtain the person’s ~~power of attorney~~ written authorization to submit the application on the person’s behalf. The ~~power of attorney~~ written authorization shall be retained at the motor vehicle dealer’s principal place of business for a period of ~~three years~~ six months from the date of application and shall be available for inspection by the department at the department’s request. The motor vehicle dealer shall also review with and disclose to the person all details of the application, before submitting the application, and shall provide a complete, true, and accurate copy of the application to the person immediately after submitting the application. The ~~power of attorney~~ written authorization shall be submitted electronically as a scanned document with the electronic application.

ITEM 6. Amend paragraph **400.3(16)“l”** as follows:

l. An authorized ERT service provider shall retain all data, information, records, and electronic records associated with an electronic application or transaction submitted or transacted through the ERT service provider for a period of at least ~~three years~~ six months, or longer as required by applicable state or federal law or regulation, and shall make all such data, information, and records available to the department at the department’s request. This includes but is not limited to the identity of the end user that initiated the electronic application or transaction. Identity information for end users shall be maintained at the entity and individual level, meaning that the ERT service provider must implement and maintain secure profile management that is capable of authenticating and verifying the identity of any entity that initiated the application or transaction and the individual officer, employee, or agent within the entity that was authorized by the entity to initiate the application or transaction.

ITEM 7. Amend rule **761—400.3(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23 to 321.26, 321.31, 321.34, 321.46, 321.105A, 321.109, 321.122, ~~and 322.19A~~ and 423.26.

ITEM 8. Amend subrule 400.4(2) as follows:

400.4(2) *Used vehicle registered or titled in this state.* The last issued certificate of title, properly assigned to the applicant, shall be submitted, unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4). An uncanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted.

ITEM 9. Amend subrule 400.4(3), introductory paragraph, as follows:

400.4(3) *Used vehicle from a foreign jurisdiction.* If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted, unless the applicant is an insurer applying for a salvage certificate of title under Iowa Code section 321.52(4).

ITEM 10. Amend subrule 400.4(4) as follows:

400.4(4) *Used vehicle acquired by a resident of this state from a government agency.* If the vehicle was acquired from an agency of the federal government, the applicant shall surrender the government bill of sale, General Services Administration Form 97 or 97A, or Internal Revenue Service Form 2435, properly assigned to the applicant. If the vehicle was acquired from the state of Iowa or a subdivision of government, the applicant shall surrender the Iowa certificate of title issued in the name of the agency, properly assigned to the applicant.

ITEM 11. Amend rule 761—400.5(321) as follows:

761—400.5(321) Where to apply for registration or certificate of title.

400.5(1) No change.

400.5(2) Application shall be made to the department's office of vehicle and motor carrier services for the following:

a. to *g.* No change.

400.5(3) Application for a certificate of title for a vehicle subject to ~~proportional~~ apportioned registration under Iowa Code chapter 326 may be made to either the county treasurer or to the department's office of vehicle and motor carrier services. ~~The office of motor carrier services may be contacted at the addresses listed in subrule 400.6(2) or by telephone at (515)237-3264.~~

400.5(4) Application for ~~proportional~~ apportioned registration shall be made to the department's office of vehicle and motor carrier services. See 761—Chapter 500.

This rule is intended to implement Iowa Code sections 321.18 to 321.23, 321.46(2), and 321.170.

ITEM 12. Amend rule 761—400.6(17A) as follows:

761—400.6(17A) Addresses, information and forms. Assistance under this chapter is available as follows:

400.6(1) Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 to 321.173 may be obtained from the county treasurer or by mail from: the

400.6(1) Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278; in person at Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021; by telephone at (515)237-3264; or on the department's website at www.iowadot.gov.

~~**400.6(2)** Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382.~~ Information for investigations under this chapter may be obtained from the Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021; by telephone at (515)237-3050; or on the department's website at www.iowadot.gov.

~~**400.6(3)** The Internet at the following address: <http://www.iowadot.gov/mvd>.~~

This rule is intended to implement Iowa Code section 17A.3.

ITEM 13. Amend subrule 400.7(11) as follows:

400.7(11) Full legal name of owner.

a. When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall submit to the county treasurer ~~on a form prescribed by the department an application for a certificate of title or registration for a vehicle. The application must be accompanied by one of the following documents:~~

(1) to (3) No change.

b. ~~Paragraph “a” of this~~ This subrule does not apply to owners that are firms, associations, corporations, or trusts.

c. When the name of an owner changes from that which is printed on the registration card, the owner shall apply for a replacement registration card.

ITEM 14. Amend subrule 400.13(1) as follows:

400.13(1) Procedures. This subrule describes the procedures to be followed to obtain a “bonded” certificate of title. The procedures described are in addition to the regular procedures for titling and registering a vehicle.

a. The applicant shall submit a bond application to the office of vehicle and motor carrier services on a form prescribed by the department. The application shall be accompanied by evidence of ownership of the vehicle.

b. and *c.* No change.

d. After the cash deposit or surety bond has been deposited, a motor vehicle investigator of the department may examine the vehicle to verify the information submitted on the application is correct. The owner of the vehicle may drive or tow the vehicle to and from the examination location by after completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation, and the form must be signed by the owner. After verifying the information, the investigator shall ~~give to the applicant a document authorizing~~ authorize the county treasurer to issue a title for and register the vehicle. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator shall authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator shall also affix an assigned vehicle identification number to the vehicle ~~and give to the applicant an assigned vehicle identification number (VIN) form~~.

e. The applicant shall then ~~submit the authorization document and, if applicable, the VIN form to the county treasurer and~~ make application for a certificate of title and registration.

ITEM 15. Amend paragraph **400.16(2)“c”** as follows:

c. If the investigator determines that the vehicle complies with 761—Chapter 450, that the integral parts and components have been identified as to ownership, and that the application has been completed properly:

(1) The investigator shall approve the application, affix to the vehicle an assigned vehicle identification number, and return the application and ownership documents to the applicant. The investigator shall ~~also give to the applicant an assigned vehicle identification number (VIN) form that the applicant shall submit with the application to the county treasurer~~ authorize the county treasurer to issue a title and registration for the vehicle.

(2) No change.

(3) The applicant shall then submit the ~~approved application~~, ownership document for the vehicle, ~~and VIN form~~ to the county treasurer and continue with the regular title and registration process.

ITEM 16. Amend rule **761—400.28(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~subsection 321.1(76)~~ sections 321.1(75) and ~~section 321.121~~.

ITEM 17. Amend rule **761—400.39(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.23, 321.111 and 321.124 ~~and 321.111~~.

ITEM 18. Amend subrule 400.40(1) as follows:

400.40(1) Conversion to real property. When a manufactured or mobile home is converted to real property under Iowa Code section 435.26, the assessor shall collect its vehicle certificate of title. The assessor shall note the conversion on the face of the certificate of title above the assessor's signature, date the notation and deliver the title to the county treasurer. The county treasurer shall note the conversion on the vehicle record ~~in the county treasurer's office, cancel the record, keep the certificate of title and notify the department of the cancellation. The department shall cancel its record for that manufactured or mobile home and then cancel and retain the certificate of title.~~

ITEM 19. Amend subrule 400.43(2) as follows:

400.43(2) The owner of a motor vehicle which is placed in storage when the owner enters the military service of the United States shall comply with Iowa Code ~~subsection 321.126(3)~~ section 321.126, and subrule 400.43(1) does not apply.

ITEM 20. Amend rule **761—400.45(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126, 321.101, 321.101A and 321.127, ~~321.101 and 321.101A~~.

ITEM 21. Amend rule **761—400.47(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 321.466, subsections (5) and (6)~~ sections 321.466(4) and 321.466(5).

ITEM 22. Amend rule 761—400.50(321,326) as follows:

761—400.50(321,326) Refund of registration fees.

400.50(1) Vehicles registered by county treasurer.

a. and b. No change.

c. Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for ~~proportional~~ apportioned registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

d. No change.

e. If the claim for refund is for excess credit or no replacement vehicle:

(1) No change.

(2) The claim for refund shall be approved or denied by the office of vehicle and motor carrier services.

f. All other claims for refund shall be forwarded to the office of vehicle and motor carrier services for processing.

400.50(2) Vehicles registered by department. Forms and instructions for claiming a refund on apportioned registration fees under Iowa Code section 326.15 may be obtained from the office of vehicle and motor carrier services at the address in subrule ~~400.6(2)~~ 400.6(1). The claim for refund shall be filed at the same address.

~~**400.50(3) Disapproved claim.** Rescinded IAB 11/23/05, effective 12/28/05.~~

This rule is intended to implement Iowa Code sections 25.1, 321.126 to 321.128 and 326.15.

ITEM 23. Amend subrules 400.51(2) and 400.51(3) as follows:

400.51(2) Procedures.

a. *Request.* Whenever an assigned identification number is required under subrule 400.51(1) and the request does not apply to a specially constructed, reconstructed, street rod or replica motor vehicle, the owner of the vehicle, component part, fence-line feeder, grain cart or tank wagon, or the person holding lawful custody, shall contact the department's ~~office of motor vehicle enforcement~~ bureau of investigation and identity protection at the address in subrule ~~400.6(2)~~ and request the assignment of a number.

b. No change.

c. *Assigned vehicle identification number.*

(1) The investigator upon approval of the request shall affix to the vehicle an assigned vehicle identification number and ~~give to the owner an assigned vehicle identification number (VIN) form~~ authorize the county treasurer to issue a title and registration for the vehicle.

(2) The owner shall submit ~~the VIN form,~~ the certificate of title, and the registration receipt issued for the vehicle to the county treasurer. If the certificate of title is in the possession of a secured party, the county treasurer shall notify the secured party to return the certificate of title to the county treasurer for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer, upon receipt of the certificate of title, and the registration receipt ~~and the VIN form,~~ shall issue a corrected title and registration receipt listing as the vehicle identification number the assigned vehicle identification number.

d. and e. No change.

400.51(3) Fees. A certificate of title fee and a fee for a notation of a security interest, if applicable, shall be collected by the county treasurer upon issuance of a corrected certificate of title. A corrected certificate of title shall not be required for a name change.

ITEM 24. Amend rule ~~761—400.53(321)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.34, 321.40, 321.41, 321.121 ~~as amended by 2011 Iowa Acts, Senate File 312, section 3, and 321.166.~~

ITEM 25. Amend rule 761—400.56(321) as follows:

761—400.56(321) Hearings. The department shall send notice by certified mail to a person whose certificate of title, vehicle registration, license, or permit is to be revoked, suspended, canceled, or denied. The notice shall be mailed to the person's mailing address as shown on departmental records and shall become effective 20 days from the date mailed. A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision in accordance with 761—Chapter 13. The request shall be submitted in writing to the director of the office of vehicle and motor carrier services at the address in subrule 400.6(1). The request for a contested case shall be deemed timely submitted if it is delivered or postmarked on or before the effective date specified in the notice of revocation, suspension, cancellation, or denial.

This rule is intended to implement Iowa Code sections 17A.10 to 17A.19, 321.101 and 321.102.

ITEM 26. Amend subrule 400.60(3) as follows:

400.60(3) *Credit from/to ~~proportional~~ apportioned registration.*

a. Pursuant to Iowa Code section 321.46A, an owner may claim credit toward the registration fees due when changing a vehicle's registration from ~~proportional~~ apportioned registration under Iowa Code chapter 326 to registration under Iowa Code chapter 321. The owner shall surrender proof of ~~proportional~~ apportioned registration to the county treasurer. Credit shall be allowed for the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

b. Pursuant to Iowa Code sections 321.126 and 321.127, the owner or lessee of a motor vehicle may claim credit for the ~~proportional~~ apportioned registration fees due when changing the vehicle's registration from registration by the county treasurer to ~~proportional~~ apportioned registration. Application for ~~proportional~~ apportioned registration shall be submitted to the department's office of vehicle and motor carrier services; see 761—Chapter 500.

ITEM 27. Adopt the following **new** paragraph **405.3(4)“c”**:

c. Notwithstanding any provision of this chapter to the contrary, an Iowa salvage title obtained by an insurer pursuant to the provisions under Iowa Code section 321.52(4) shall be issued free and clear of all liens and claims of ownership, including any outstanding registration fees or registration penalties.